



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

July 3, 1998

Ms. Leah Curtis Morris
Attorney at Law
2708 Washington Street
Greenville, Texas 75401

OR98-1575

Dear Ms. Morris:

You have asked whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 115564.

The Greenville Fire Department (the "department"), which you represent, received a request for "investigation reports by anyone, including fire department or insurance investigators reports concerning the fire which occurred at Town South Shopping Center on 4/ 8/96." The department provided to the requestor various documents that are responsive to the request. However, you have not released to the requestor a draft report provided to the department by a third party. You assert that this report is excepted from disclosure pursuant to sections 552.101 and 552.110 of the Government Code.

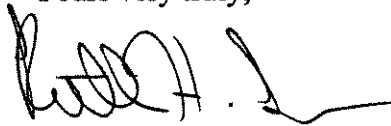
Section 552.101 excepts "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." This section encompasses information made confidential by statute and information protected by common-law or constitutional privacy. Section 552.110 protects the property interests of third parties by excepting from disclosure two types of information: (1) trade secrets and (2) commercial or financial information obtained from a person and privileged or confidential by statute or judicial decision. You have not explained the applicability of either section 552.101 or 552.110 to the report at issue. We have reviewed the report and it is not apparent to this office that either exception is applicable to the report.

We note that when a governmental body asserts that a third party's section 552.110 interests are at issue, this office generally notifies the third party of the request so that this interested party can assert any property interests that may be at stake in releasing the information. Gov't Code § 552.305. In order to notify the third party of a request, we rely upon the governmental body to supply this office with the other party's name and address. However, despite repeated requests from this office for the identity and address of the

individual or company who created the draft report and supplied the report to the department, you have not provided this information. We were therefore unable to notify the third party of the request. Thus, we have no basis to conclude that either section 552.101 or section 552.110 is applicable to the draft report. The department must release the report to the requestor.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,

A handwritten signature in black ink, appearing to read 'Ruth H. Soucy', with a long horizontal flourish extending to the right.

Ruth H. Soucy
Assistant Attorney General
Open Records Division

RHS/ch

Enclosures: Submitted documents

Ref.: ID# 115564

cc: Mr. Michael Gentry
Attorney at Law
1415 Louisiana, Suite 3700
Houston, Texas 77002
(w/o enclosures)